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## Motions 2017 volume 54 number 1

University of San Diego School of Law Student Bar Association

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# MOTIONS

VOL. LIV, No. 1 University of San Diego School of Law Verba Volent Scripta Manent February 2017

## IN MEMORIAM

A Tribute at the Passing of a  
Fearless Leader  
Karl Gruben, Director  
Pardee Legal Research Center



Karl Gruben was a tall and courtly Texan who came to academia via a diverse route that prepared him in unusual and traditional ways for his associate deanship at the law school. Yes, he had a law degree and a masters in librarianship, both acquired in Texas, but in his earlier years, he worked in his father's feed store and in the Texas oil fields, and he also served in the military.

Karl started his library career in the Texas state library and moved on to a long stint in the Houston office of the law firm Vinson & Elkins, where he met and fell in love with his wife, Linda McCloud. He ultimately left Texas for a stint at the Cleveland office of Squire, Sanders & Dempsy while preparing for his transition to academia.

Karl is one of very few librarians who has switched from the private sector to academia. After two years of Midwestern winters, he and Linda moved to Miami, and Karl joined the faculty of St. Thomas University Law School as the library director.

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## CANDIDATES BEWARE

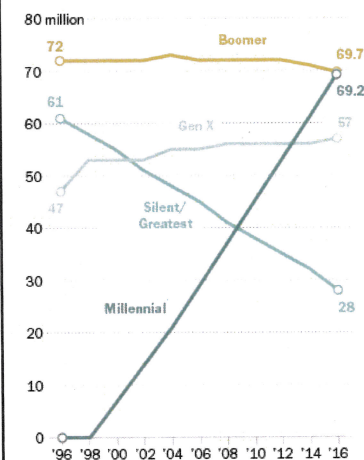
Ignore the Millennial Vote at Your Own Peril

By Michael Kelley

For the first time in a generation, Baby Boomers, as a voting bloc, are at risk of losing their position as the largest group of voters. According to the Pew Research Center, 2016 was the first year where eligible Millennial Voters (for the purpose of this article, voters under the age of 35) were estimated to reach parity with the Boomers, and trends show that by the next presidential election Millennials will be the largest group of eligible voters. If they decide to show up, and whether or not politicians try to earn their vote, remains to be seen.

### Number of Millennials eligible to vote now roughly equal to Boomers

Eligible voters by generation, 1996-2016



Note: Eligible voters are U.S. citizens ages 18 and older. Millennials refers to population ages 18 to 35 as of 2016. Source: Pew Research Center tabulations of the 1996-2014 Current Population Survey November Supplement (IPUMS) and the April 2016 Current Population Survey

PEW RESEARCH CENTER

strongholds instead of swing states, and the perennial excuse of third-party candidates taking away votes that should have gone to one of the major party candidates. While the talking heads on cable news networks and bloggers have spent countless words over the last several months debating and dissecting the reason for Mrs. Clinton's loss, two points stand out: Democrats lost the support of Millennials since the last presidential election, and that loss hurt the Clinton campaign when she needed it most.

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Despite losing the popular election by nearly three million votes, on December 19, 2016, Electors in state capitals across the nation met and voted to elect Donald Trump as the 45th President of the United States. Though Mr. Trump will be entering the White House with the specter of Russian influence on the election and the lowest approval ratings for someone who hasn't had a single day in public office, he will be our President.

There has been a lot of hand-wringing amongst Democrats to make excuses (or to point blame) as to why Hillary Clinton lost to a man who only a year ago was seen as the least likely candidate in either party: the aforementioned Russian influence, innuendo from the FBI only a week before the Clinton camp to campaign in Republican





## MOTIONS

Published Since 1963  
Formerly *The Woolsack*

5998 Alcala Park  
San Diego, CA 92110  
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Our mission is to provide news, information, analysis and commentary to students, faculty, and staff of the University of San Diego, the University of San Diego School of Law, and the general legal community of San Diego. We believe that journalistic excellence is the soundest foundation for success. We pledge to seek and report the truth with honesty, accuracy, and fairness. These principles are cautiously guarded by each member of the Motions staff.

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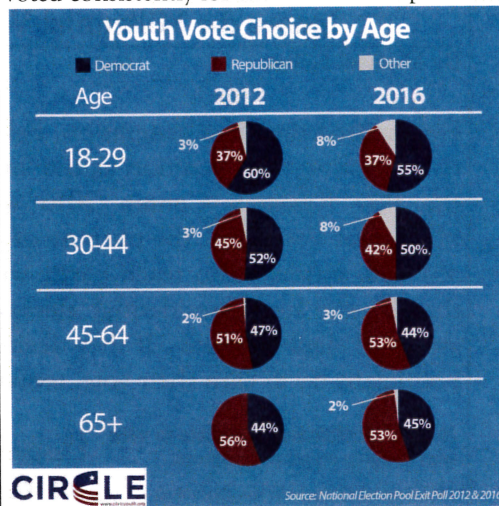
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## CANDIDATES BEWARE

Continued from front page

Millennial Voters have had a direct influence on Presidential elections since the 2008 campaign cycle. Young liberals were instrumental in supporting Senator Barack Obama from the start of the contentious Democratic primary that year, and Millennials ended up voting for him 2-to-1 against his Republican opponent. A majority of Millennials have voted consistently for the Democratic presidential nominee for President ever since.



Compared to other age groups, Millennials are more likely to be pro-choice, support equal rights for LGBT individuals, and be supportive of universal health care – all issues that the Democratic Party has adopted as part of their party platform. Supporting the same issues does not equate to supporting a particular party, however. A study released last September by San Diego State University indicates that fifty-nine percent of Millennials aged eighteen to twenty-nine were registered as independent, an all-time high.

That independent streak became particularly evident during the presidential primaries. Bernie Sanders was the candidate supported overwhelmingly by Millennial Democrats, and Mr. Sanders quickly became the lone candidate to stand in the way of the establishment's preferred candidate, Mrs. Clinton. Mr. Sanders's campaign, taking aim at big corporations and major banks, ever-rising college tuition, and the feeling of general unfairness in our economic system, hit a chord with the generation entering adulthood during the Great Recession.

Although she adjusted her campaign after the primaries to adopt popular issues Mr. Sanders ran on, Millennials did not support Mrs. Clinton on Election Day in the same way they had previously for Barack Obama. There were six states that went for Mr. Trump in 2016 that had supported Mr. Obama in both 2008 and 2012 – Florida, Iowa, Ohio, Michigan, Pennsylvania, and Wisconsin. The latter three states were considered part of a "blue wall" – states that had consistently voted Democratic since Bill Clinton set a new tone for the party in 1992. Tellingly, the margin of Millennial Voters that supported Mrs. Clinton in each of those six states were well below their support of Mr. Obama, ranging from a 5% decrease in Michigan to 20% in Iowa.

It is also not safe to assume all Millennials are would-be Democrats. Relatively youthful GOP candidate Marco Rubio found surprise support from conservative Millennials during his primary run, and ended up embracing them to shore up his Senate re-election campaign. And more Millennials voted for third-party candidates in 2016 than in 2012.

There is still a long way to go before Millennials have more political clout than their elders. Having more eligible voters does not equate into actual votes: while it will still be several months before the Census Bureau presents accurate data regarding the percentage of eligible Millennials who actually voted in the last election, historical data indicates that voters under 30 are nearly half as likely to show up to the polls versus voters twice their age. That being said; a politician that is able to look past stereotypes of Millennials as lazy and entitled, who is able to address issues that Millennials care about, and who recognizes that supporting the status quo is no longer viable has a greater chance at victory in future elections.

Michael Kelley is a 1L interested in Immigration Law, International Law, and Public Policy.

Note: All sources available at  
motionsonline.org

## REMEMBERING KARL GRUBEN

During Karl's long career in law libraries, the world of information science changed dramatically, and Karl enthusiastically mastered the nuts and bolts of the new technologies, evolving into a self-taught expert on the new infrastructure of legal research.

Karl brought all of this experience and expertise to USD when he became the Associate Dean for Library & Information Services at the law school. He took a leadership role in classroom technology and design both in the law school and on the campus at large.

Furthermore, his background in the legal field and his vast knowledge of legal resources benefited the law library immeasurably. He was able to institute great economies to the management of the collection without sacrificing depth or efficiency.

But most of all, Karl brought to us his great warmth and the kindness of a heart the size of Texas. He exuded a charm that was truly genuine and sincere. Everyone he worked with was drawn in by his amiability and his concern for others. If Karl had a fault, it was his distaste for saying no to any request. He inspired a deep loyalty in all who worked with him or whose path crossed his. His death leaves a vast Texas-sized chasm in our lives and our hearts.

## Justice Against Sponsors of Terrorism Act

By Kate Kearney

Well folks, hell may have officially frozen over because I agree with President Obama on something.

Should the families of 9/11 victims be able to sue Saudi Arabia for its alleged involvement in the terrorist attacks? Well, for better or for worse, they can now. Congress recently passed the Justice Against Sponsors of Terrorism Act (JASTA). President Obama actually vetoed JASTA but Congress, for the first time during his presidency, was able to override his veto effectively making JASTA law. JASTA reads in part:

"This bill amends the federal judicial code to narrow the scope of foreign sovereign immunity (i.e., a foreign state's immunity from the jurisdiction of U.S. courts). Specifically, it authorizes federal court jurisdiction over a civil claim against a foreign state for physical injury to a person or property or death that occurs inside the United States as a result of: (1) an act of international terrorism, and (2) a tort committed anywhere by an official, agent, or employee of a foreign state acting within the scope of employment. International terrorism does not include an act of war. Federal court jurisdiction does not extend to a tort claim based on an omission or an act that is merely negligent." Public Law No: 114-222

So in simpler terms, JASTA would allow a lawsuit against any country by any U.S. citizen who claims the country financed or otherwise aided and abetted a terrorist attack on U.S. soil. Liability would attach only if the plaintiff could show the country acted with knowledge in providing this support. So what could possibly be wrong with this new law? It got overwhelming support from both sides of the aisle, and it allows grieving families who lost loved ones on 9/11 to finally seek justice and get their day in court right? Well for starters, to add to the context, it is an election year, and frankly what official in Congress wants to be dubbed as not being sympathetic to 9/11 victims? You can just imagine the political ads now and the "optics" would not be flattering. Secondly, who doesn't have compassion for the families of 9/11? We all probably remember where we were that day how everything changed. 9/11 was a tragic and emotional day for the whole nation and much of the world. So should we let our emotions drive policy? I say no, and JASTA provides a perfect example as to why a feel good law can lead to terrible results.

Remember that thing called foreign sovereign immunity? The doctrine of foreign sovereign immunity provides that a foreign state generally is immune

from the jurisdiction of the courts of another sovereign state. The problem with JASTA is that it carves out what is likely to develop into a broad exception not just the foreign sovereign immunity of the other countries, but also for the United States. To illustrate, President Obama and other critics of JASTA are nervous that other countries could retaliate by passing even broader waivers of sovereign immunity, thus allowing lawsuits against American service members, diplomats, and government officials in their own courts. (And remember, few other countries uphold American standards of due process.)

You may be thinking, but wait, JASTA says international terrorism does not include an act of war, our military would be fine. Not necessarily. Not all military actions are part of an official war. (drone strikes, specialized missions, etc.) Further, what exactly is terrorism? There are many competing definitions of terrorism and international terrorism in both international and domestic laws. The U.S. is trying to create a generalized definition, but clearly our definitions of terrorism would not necessarily be followed by other countries. Also, think about the ramifications of the discovery process, what country is going to reveal any dirty secrets or potential involvement it had in acts of terror? Would the United States, in turn, have to reveal national security information if another country passed a similar bill to JASTA and its citizens sued the United States? Perhaps Congress will amend JASTA and make the law more narrowly tailored to protect our nation's interests. In the meantime, it will be interesting to see how these 9/11 lawsuits play out in court and whether Saudi Arabia, or other potential defendants, will be held liable for terrorist attacks.



## ADVICE ON LOVE, LIFE, AND LAW

## Law Librarians – We’re Everywhere!

### Q & A with a Law Firm Librarian

Q: How can I guarantee an amazing first date?

By Melissa Abernathy, Law Librarian

**Pansy Prince:** Manners matter. You can be as cute, charming, and clever as you want, but if you aren't courteous it's a major deal breaker for the ladies.

Don't go on guy tangents like sports and cars. Don't talk about other girls. Don't try too hard with your looks. If you normally don't pomade your hair there's no need to start. It's okay to be eccentric and nerdy, just don't be pervy.

**Preppy Princess:** Dress to impress. But your personality is important too. Don't pretend to be into sports or politics or try to be funny if it is unnatural to you. Just be yourself even if that means being awkward or quirky. Everyone has their own charms, so why hide them? If they can't appreciate you as you are don't waste your time. Don't flirt too much, most guys don't get the hint anyways. Have low-key make-up and accessories.

Q: How do you commit to a New Year's Resolution?

**Pansy Prince:** Don't make one in the first place. Then you don't have to worry about keeping it. Resolutions are just a gimmick to make people feel like they have some purpose or direction to guide them through another year of uncertainty. It's a false sense of security. So you are definitely better off sticking to no goals. Low expectations means more happiness and less disappointment.

**Preppy Princess:** Make short-term goals that are feasible. Make specific plans rather than just general, big umbrella resolutions. Instead of just saying lose weight or go the gym, perhaps make a schedule to lose a pound a month or go to the gym three times a week. Adding concrete details make the goal seem more feasible. It's the fact that the goal is within sight or within reach that makes it achievable.

*Last month Anna Russell reminded us what a law librarian can do for you here at USD (What (the heck) is a law librarian? Motions, October 2016). This month we wanted to highlight what firm librarians can do for you while you are at your summer associate positions or as new associate hires.*

From an informal poll of law librarians at nine San Diego law firms, we are happy to report that all firms provide some sort of legal research training. Some firms train in large mandatory classes, others keep training optional or on an individual basis. Often legal research vendors like Westlaw and Lexis participate.

We chatted with Betsy Chessler, a Research Analyst at Morrison & Foerster LLP with over 17 years of law librarianship experience. Here's what she had to say:

#### 1. Who handles legal research training for new associates and summer associates at your law firm?

This summer my firm welcomed 111 summer associates, and this fall we will welcome a total of 41 new associates. Our summer associates and new associates both receive several days of orientation when they first arrive, often followed by more intensive seminars several months later. Legal research training is just a small part of the overall orientation process, and is handled by the Research Services team (formerly known as Library Services). We cover research methodology and our more popular research tools in a little over an hour, via a firm wide video presentation. We use a single slide presentation, but librarians from half a dozen of our offices are assigned specific sections to cover. We follow up with local library orientations in each office. This year our training will include a few pop quiz questions to keep things interesting. We also have Lexis and Westlaw reps come in to give short training sessions. The emphasis is on cost effective research.

#### Summer Associates:

**Day 1:** Welcome Breakfast, Summer Program Overview, HR Policies and New Hire Paperwork, Risk Management video, Benefits Orientation, Welcome Lunch, Meet Your Secretary, Desktop training and iPhone setup

**Day 2:** Facilities Overview and Office Tour, Library Orientation (30 minutes), Working with Support Staff, TimeNotes Training, Pro Bono Overview and Lunch, Safety Overview, Welcome Happy Hour

**Day 3:** Lexis/Westlaw training (30 minutes each), Research Methodology and Firm Research Resources (90 minutes), How to Write a firm Memo, Your First Assignment

#### New Associates:

**Day 1:** Welcome Breakfast, HR Policies Overview, Benefits Orientation, Welcome Lunch, Desktop Training, Records Overview, Office Tour, Office Safety and Ergonomic Review, Administrative Overview, Working with Support Staff

**Day 2:** Attorney Development overview, Marketing Department overview

**Day 2 or 3:** Library Orientation and Overview (20-30 minutes), Research Methodology and Firm Research Resources (60-70 minutes), Westlaw and Lexis training (60 minutes),

#### 2. What are associates expected to learn from the experience?

Summer Associates draw research assignments from a firmwide database, and being eager beavers, often start assignments before we even give our training. I often tell associates that it's okay if they don't remember all the resources, they just have to know how to reach me. I'm here to help.

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## LETTER FROM THE EDITOR

Welcome back, everyone. I hope the winter break treated you well and you're doing your best to remain dry as you get back into the swing of things. To all that are gearing up for graduation, congratulations for making it to the home stretch. Also, I'd like to congratulate you on being the last graduating class to prepare for the bar exam under the laws of the old regime of America. To everyone else, I know "Thanks, Trump" doesn't have the same pleasant ring to it as "Thanks, Obama," but it will soon come to roll easily off the tongue.

What an exciting time, huh? A federal government fully controlled by what's left of the Republican party, revolts south of the border, protests around America, and legalized marijuana. I hope your logical minds have maintained a vestige for humor, because laughter, after all, is the best medicine. Reflection, I think, is a distant second. Luckily, you have Motions here to prescribe you both. But if you're doubling down on the age of distraction, we've put Sudoku on the last page.

Yours in Service,

Joe Stewart,  
Editor-in-Chief



## CALL FOR SUBMISSIONS!

*You want to write,  
you know you do.  
Come on, give it a shot.  
Gotta pay for coffee somehow.  
Write what you enjoy,  
tell us new things,  
keep us coming back for more.  
Send submission inquiries to  
motions@sandiego.edu*

## Q&A with a Law Firm Librarian Continued

3. What is the most common legal research mistake you see with novice legal researchers?

I think the most common mistake is jumping into the details before understanding the big picture. If the area of law is unfamiliar to you, and even if it's pretty familiar, you still need to get the lay of the land. Is this a federal or state matter? Is there controlling primary law? Is it a single statute or do you need to wade through federal regulations to understand what is allowed and not allowed? And very importantly, is there some kind of practice guide, a Nutshell or Nolo or other treatise, that can explain it all quickly? For cutting edge law, a law firm article, available through a Google search, can save loads of time in setting the context.

4. What should an associate do if they are "stumped"?

We use the acronym, "Just ASK." It stands for Jurisdiction, Useful tips, Scope of Research, Terms of art, Acronyms, Sources, Key cost constraints. Hopefully they've already asked the assigning partner for background on the projects, suggested sources, and any "gotchas." Having said that, new associates are often researching cutting edge law, and frankly, there may not be a clear answer or any answer. But they have to go through the research process to make sure that is the case. Often a librarian can suggest new sources, new terms, or help broaden the search. So the short answer is, when stumped, ask a librarian.

5. How have you seen law firm legal research change over the last decade?

I can't speak for other law firms, but I can say that in our law firm, we have tried to get away from just providing a laundry list of resources. We want new associates to focus on the methodology, and know about a few essential research tools.

6. If you could tell associates to master one legal research skill, what would it be?

That's a tough one. I could say make sure your citations are good law. That's obviously essential. Shepardize and Keycite early and often, and especially at the end. But maybe a more holistic response is to think of legal research as a circle. It's iterative. You discover a new search term or a new twist in the legal issue, and you adjust your search. And at the end, you ask yourself, did I answer my original question? Or alternatively, did I answer the question that should have been asked? If there is no clear answer, am I satisfied I looked hard enough and turned over the right stones?

7. Anything else?

According to a recent Law Library Journal article\*, legal research instruction is a lower priority in law schools. Only 16% of law schools surveyed had a stand-alone research class. For most, legal research is just a small part of a writing class. So often new associates come to the law firm without a lot of experience or knowledge about how to conduct legal research. They have to do some catch up. But I'm pleased to report that our new associates are good listeners of our legal research presentations. When they come to me, they've already followed our directions and they will let me know what they've looked at already. But they often are not aware of other resources out there, or their search needs to be narrowed or broadened. Research is not some straight linear line (though sometimes it might feel like that in law school). It can be pretty messy and frustrating. That's the real world of legal practice.

## GRANDFATHERED VAPE AMENDMENT

By Michelle Dinh-Tran

Thanks to the Cole-Bishop Amendment that was passed by the House Appropriations Committee on August 20, 2016, the FDA will not be able to ban 99% of vape products that have been thrown into the consumer market without any regulations. The legislation changed the predicate date from February 2007 and exempts pretty much all products that have been made since then from going through the current prohibitive pre-market approval processes. Protected vape products will become a control for future products setting the standard very low. If both the House and Senate vote to pass the 2017 Agricultural Appropriations bill the amendment was added to and it is signed by the President it will allow already available products to avoid extensive and lengthy testing, ultimately making them grandfathered and not subjected to high standards like all other nicotine products.



Aside from ill-advisedly moving the grandfather product date, the Cole-Bishop Amendment will actually be a significant step towards increasing consumer safety and tightening manufacturer regulations and FDA oversight of them. The amendment will require children safety labels on packages, advertisements are limited to adults only, prohibit vending machine sales, require nicotine disclosure information, require retailers to register with the FDA, and there needs to be a final product standard for batteries. So, if only the February 2007 date will remain as is instead of shifting it to exclude all products up until 2016 in favor of vape companies trying to evade regulations, the amendment is a really a positive and much needed measure.

CNN found that e-cigarettes and vape poisoning cases have dramatically increased, especially among children, which is more than enough cause to warrant the FDA regulation process to take in all products, instead of letting them puff by. The vapes are more attractive to minors due to it being a modern trend and its flavors. But the exposure to unknown ingredients in liquid nicotine reacts faster in the body and can cause seizures, coma, and respiratory arrest. And as if medical safety concerns are not enough, there are exponentially rising reports of e-cigarettes and vapes exploding while in the consumer's possession and even during use.

Vape companies have lauded and heavily promoted their products as a better alternative to smoking cigarettes, but there is no conclusive evidence and, quite frankly, consumers who are led to believe such endorsements might use vapes more times in a day than they would smoke cigarettes, essentially cancelling out any health advantage they could have gained by switching to vapes. This is the same effect with people who eat more of products that are said to contain less sugar thinking they can consume larger quantities than they would have with actual sugar because it is supposedly a good substitute.

To compromise with the vape companies, current products should not all be taken off the market to be tested, but instead should be screened in procession. By doing so, consumers would buy products that are known to pass regulations as the FDA continues to check the remaining products.

**Michelle Dinh-Tran is a 1L interested in health law**

### ADVICE CONTINUED

**Q:** Worst thing about being a law student/attorney?

**Pansy Prince:** Absolutely nothing. You get paid for helping people solve their problems. What could be a more noble than that? You get to be the living proof of how the pen is mightier than the sword. It is the epitome of justice and power. If anything it is rewarding to know that you are putting time and effort in personally making a difference in someone's life.

**Preppy Princess:** It is competitive. The job market is tight. Work hours are long. It is a high stress environment. The advancement of technology is creating a changing paradigm where a lot of legal information could be found and completed online. Business formal attire. Lack of time for beauty sleep. Pressure giving me acne and causing me to stress eat. Trying to find a happy medium between work and life is a challenge.



## Budget-Friendly Solutions to Costly Beauty Woes

By Kate Kearney

As any studious and self-disciplined law student does, I often spend my time outside of class watching beauty gurus on Youtube, reading about the latest and greatest hair and skin products, and browsing Ulta's website creating shopping carts I never check out. Why? Well, let's be honest, it's just fun. But more so, since I have started law school I have noticed my hair taking a turn for the worse. Now to be fair, my hair has been through quite a lot in its life. Bleach, hair extensions, more bleach, straightening, tight hairstyles, etc. It has only been the past 2 years or so that I stopped all that at an attempt to bring it back to life. However, since having moved to San Diego, and despite treating it like delicate lace, it has become brittle, dry, frizzy and fragile. In addition to these lovely struggles, my skin became hypersensitive and would break out more often. It was fabulous (strong sarcasm). I have spent many hours looking for products to try to help. Dropping lots of money (that I don't really have) on expensive products in search of the solution. At the risk of sounding dramatic, I even thought perhaps I had an underlying medical condition, like hypothyroidism, but actually ran blood tests and everything came back just fine. Well ladies (and gentleman), I think I may have come across the underlying problem that was perhaps obvious but I never gave thought to: hard water.



Yes, all along, it appears that the notoriously hard water of Southern California was wrecking havoc on my hair and skin in all sorts of ways. You see, like many of you, I am not a San Diego native. I moved to San Diego for law school. Although I am from California's central coast and attended undergrad in Fresno, which like most of California both have hard water, up until law school I had lived in a house that had water softeners. Therefore, once I moved to San Diego and lived the low budget law student apartment life, I lost the luxury of beautiful soft water, which I had apparently never given thought to and took very much for granted.

So what's an apartment dwelling law student to do? Well, you can't exactly go and install a standard house water softener. Not only would that be beyond your budget but something also tells me your landlord would not appreciate your remodeling efforts to simply improve your hair's bounce and shine. Instead, a cheaper and super easy solution is a showerhead with a hard water filter. Get yourself one from Lowes, Home Depot, or off Amazon for around \$30 or less and you will not regret it. It only takes 5 minutes to install (keep the old showerhead to re-install when you move) and voilà! Your hair will thank you. Your skin will thank you. If you suffer from itchy tight skin when you get out of the shower and immediately have to slather on the lotion for relief (previously me), this will help immensely. Not only will you get all these lovely benefits from having soft water in your shower, it also helps those products you spent your precious money on work so much better! Because your hair and skin isn't coated with hard water minerals, the products can actually penetrate your skin and hair to do what they were designed to do, even while using less of the product. If you have really been struggling with that weird feeling gunky buildup in your hair, I also recommend grabbing a decent clarifying shampoo to remove the hard water minerals and get off to a brand new start with your soft water. If you're a guy and wash with bar soap (like many do) soft water will prevent soap scum forming on your soap and help that soap bar suds up much easier. I cannot believe it took me this long to figure out my problems stemmed from something as simple as the water I was using, but save yourself the struggle and look into getting a showerhead with a hard water filter!

Kate is a 2L interested in creditors' rights



## TRANS-NATIONAL LIVING: The Perks of Mexico

By Joe Stewart

One of the great benefits of living in San Diego is having direct access to a foreign country with a lively culture so distinct from the “American Way.” Having grown up in California, I’ve had the distinct pleasure of visiting Mexico for years. The culture is one I know and love well, even in the face of difficulties acquiring the language.

Recently I decided to rent a house in Rosarito, which is located approximately twenty miles south of the border. I knew that the commute would be an additional burden on an already tight schedule, but the benefits seemed to far outweigh that cost. For the most part, I have been correct in that assessment.

Granted, I couldn’t have predicted that protests and upheaval would have me waiting in line for fuel for more than forty-five minutes, hoping the entire time that the last station with gas wouldn’t run out before I got to the pump. I couldn’t have predicted that those same protests would close the border for several hours, preventing me from getting home. I couldn’t have predicted that some unfortunate soul would commit suicide on the 5 North, shutting down all lanes and causing me to miss class. I couldn’t have predicted that the coast would experience nearly three times the average number of rainy days so early in the year, rendering my commute by motorcycle impossible and leaving me stranded in San Diego with limited supplies.

But I was aware that the rich and vibrant culture would be a reprieve from the rat race I’ve grown tired of in America. I was also aware that the significantly decreased cost of living would be welcomed as one less stressor to contend with while on this journey of specializing in America’s distinct flavor of justice. And I was quite excited to share these experiences with my peers through this medium. However, this first recount is forced to take a dark turn because of an experience with U.S. Border Patrol that I could never have predicted.

A few nights ago, I was traveling back to San Diego from Rosarito. When I reached the border, I was told that I’d been randomly selected for secondary inspection. This was no trouble; I recognize this to be a possible outcome of the commute and I plan my time accordingly. What I didn’t expect was to be assaulted and brutalized for simply asserting my rights.

I was asked by the border patrol agent why I was in Mexico, to which I responded I was enjoying my liberty to freely travel. I was then asked the question with more precision—what was the purpose of my time in Mexico. I offered the same answer. The agent, perceptibly becoming frustrated, asked me why I was traveling to San Diego, to which I responded that I am a citizen of the United States. Again, he repeated his question with greater particularity, and again I offered the same answer.

It was at this point I was asked if I was going to continue to be non-compliant or if I was going to answer their questions. Four more agents had come to offer their support in physical presence. I responded that I was in fact being compliant, that the border patrol’s responsibility is limited to determining citizenship and right to access as well as prevent contraband from/entering the United States (check it out for yourself— 8 C.F.R. Part 287), and I wasn’t doing anything to keep them from their work. But I offered the caveat that I needn’t forego my right to privacy for the purpose of answering questions irrelevant to their responsibilities. This position, they determined, was tantamount to being non-compliant. I was handcuffed and entered into holding.

At the counter, I was asked many of the same questions, the responses to which I maintained. I was surrounded and held by five border patrol agents, told I have no Fourth Amendment rights in that room, and was physically brutalized and even tasered all because I had asserted my rights. I was subsequently held for more than five hours even after the border patrol acknowledged that my citizenship was confirmed and I was not suspected to be carrying any contraband. When I asked how long I would be held, I was told that I would be there as long as they wanted me to be.

In our time here studying law, we learn that the Constitution was established to provide rights to citizens and limit actions of government entities for the purpose of protecting citizens from their government. However, as even a cursory analysis of the Fourth Amendment shows, American courts and lawmakers have eroded the rights of citizens and expanded the powers of government in order to satisfy particular state interests. And abuses of power by border patrol agents are no different.

I challenge you to search in Google “U.S. Border Patrol complaints for abuse” and see just how many stories from reputable sources—and how many cases from reputable firms—allege abuses by the border patrol and expose that the government does nothing to address them, nothing to stop them. It’s for this reason that I know my complaint to the border patrol will go unanswered, and when a tort claim is denied and I receive my right to sue letter, I will be left in the unfortunate position of engaging lengthy and costly litigation against the United States to more likely than not find my case dismissed on the grounds that the courts don’t want to have a “chilling effect” on those most noble individuals who keep us safe and secure, rights be damned. The only alternative to this position is just letting the matter go and mourn the blind eye turned to Benjamin Franklin’s great admonition that those who sacrifice liberty for security deserve neither.

I really wanted this first piece to be a light-hearted exposé of the joys of living in Mexico. Unfortunately, America again reared its ugly head. Maybe next month my nerves will be calmed, my taser burn healed, and I’ll share with you how great the food is in Baja.

